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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,140	04/24/2001	Damien Kessler	PU010005	6046

7590 06/28/2005

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EXAMINER

CZEKAJ, DAVID J

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,140

Applicant(s)

KESSLER ET AL.

Examiner

Dave Czekaj

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/16/02</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities: Claim 2, as written, depends from claim 2. Appropriate correction is required.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The examiner notes the applicant uses the term "said" numerous times in the abstract.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4, 11, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Desai et al. (6034746), (hereinafter referred to as "Desai").

Regarding claims 1-2 and 19, Desai discloses an apparatus that relates to information handling systems (Desai: column 1, lines 6-9). This apparatus comprises "receiving encoded data representing a first video program having a first resolution" (Desai: column 4, lines 1-5, wherein the first video program is the data stream), "receiving encoded data representing a second video program of a second resolution lower than the first resolution" (Desai: column 4, lines 5-12, wherein the second video program is the commercial), "generating transmission identification information for signaling a transition from the first display program to the second display program" (Desai: column 5, lines 1-10, wherein the identification information is the commercial insert points), "incorporating the first and second video program and identification information into packetized data" (Desai: column 4, lines 23-29, wherein the packetized data is the program stream), and "providing the packetized data for output to a transmission channel" (Desai: figure 1, wherein the packetized data is output over the network).

Regarding claims 4 and 11, Desai discloses "the second video program is a video commercial" (Desai: column 4, lines 5-12).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 3, 9-10, 16-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. (6034746), (hereinafter referred to as "Desai") in view of Sakamoto et al. (6026164), (hereinafter referred to as "Sakamoto").

Regarding claims 3 and 10, note the examiners rejection for claim 1, and in addition, claims 3 and 10 differ from claim 1 in that claims 3 and 10 further require upconverting the video data. Sakamoto teaches that it is difficult to effect scrambling without changing the code length (Sakamoto: column 2, lines 1-3). To help alleviate this problem, Sakamoto discloses "upconverting the decoded second resolution data" (Sakamoto: figure 9, wherein the upconverting is the up-sampling). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Desai and add the upconverting taught by Sakamoto in order to obtain an apparatus that operates more efficiently by being able to scramble the data and keep the code length constant.

Regarding claim 9, note the examiners rejection for claim 1 and in addition Sakamoto further discloses "decoding the video program to provide a decoded first resolution data and a decoded second resolution data" (Sakamoto: figure 9, wherein the first resolution data is the HDTV data and the second resolution data is the SDTV data).

Regarding claims 16-17, Sakamoto discloses "storing data in a buffer" (Sakamoto: figure 9).

Regarding claim 18, Sakamoto discloses "the buffer is MPEG compliant" (Sakamoto: figure 9, column 1, lines 47-49).

Regarding claim 20, note the examiners rejection for claims 1 and 4.

7. Claims 5-8 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. (6034746), (hereinafter referred to as "Desai").

Regarding claims 5-7 and 12-14, although not disclosed, it would have been obvious to provide the video data such as a news program from a network feed and local video program (Official Notice). Doing so would have been obvious in order to make the system more versatile by being able to transmit video to a user if one of the local/network feeds is down.

Regarding claims 8 and 15, although not disclosed, it would have been obvious to transmit the data via satellite (Official Notice). Doing so would have been obvious in order to obtain an apparatus that can safely and reliably transmit data.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US-5600366	02-1997	Schulman, Martin A.
US-5892535	04-1999	Allen et al.
US-6025882	02-2000	Geshwind, David Michael
US-6026164	02-2000	Sakamoto et al.
US-6181383	01-2001	Fox et al.

US-6615039	09-2003	Eldering, Charles A.
US-6748020	06-2004	Eifrig et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Monday - Friday 9 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJC


VU LE
PRIMARY EXAMINER